

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

STEPHEN "MARSHALL" WILSON, as an
Independent Candidate
for Governor of West Virginia and
in his Individual Capacity,

Plaintiff,

CASE NO.2:20-cv-00526

vs.

Honorable Thomas E. Johnston

JIM JUSTICE, Governor of West
Virginia, in his Official Capacity, and
MAC WARNER, Secretary of State
for West Virginia, in his Official
Capacity,

Defendants.

**PLAINTIFF'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 65(a), Plaintiff Stephen "Marshall" Wilson moves for a temporary restraining order and/or preliminary injunction against Defendants Mac Warner, Secretary of State for West Virginia, and Governor Jim Justice (collectively, "Defendants"), ordering them to refrain from enforcing the signature requirements and filing deadline prescribed in W. Va. Code §§ 3-5-23 and 3-5-24.

In support of his motion, Wilson submits the following Brief in Support of this motion, attached to this motion as Exhibit No. 1, confirming that Wilson is likely to succeed on the merits with respect to the unconstitutionality of W. Va. Code §§ 3-5-23 and 3-5-24 as applied in combination with the extraordinary measures taken by state and federal governments to fight the coronavirus pandemic, including Governor Justice's

March 23, 2020 Executive Order No. 9-20 (the "Stay Home Order"), attached to this motion as Exhibit No. 2.

Absent the issuance of a temporary restraining order, Wilson will incur irreparable injury because his name will not appear on the November 3, 2020 General Election ballot and he and his supporters will be deprived of a meaningful opportunity to vote for him. The balance of equities tips in favor of Marshall because Defendants' enforcement of the signature requirements and filing deadline prescribed by statute is not, in light of the current pandemic, narrowly tailored to meet any compelling or legitimate State interest. Moreover, the inclusion of Wilson's name on the ballot will serve the public interest by allowing him and those who wish to vote for him to express their First Amendment rights.

STEPHEN "MARSHALL" WILSON
By Counsel:



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